IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6271 OF 2007

Nandkumar Raghunath Menkar & anr.... Petitioner

versus

Ghanysham Gulabchand Mantri..... Respondent.

Shri Sugandh Deshmukh for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 05TH SEPTEMBER, 2007

P.C.;

1. It is the case of the petitioner that when the suit was posted for judgment, the respondent moved an application, at Exh.80, for setting aside the "no cross order". The trial court allowed the application subject to payment of cost and has permitted the respondent to cross examine the witness. The said order is dated 22-1-2007. The petitioner thereafter waited for about six months and filed an application for review of the said order. The review application has been rejected and hence the present writ petition has been filed.

2. Questioning both the orders passed by the trial court, the learned counsel for the petitioner, placing reliance on a judgment of a learned Single Judge of

this Court, reported in **AIR 1986, BOMBAY 43,** submits that after the case is adjourned for judgment, such an application for setting aside the "no cross order" could not have been filed by the respondent. At this stage, I do not propose to interfere with the impugned order, as the same would result in delay in the decision of the suit which is pending since last about ten years. Leaving all questions raised in this petition, open to be urged in a regular Civil Appeal, if and in case the petitioner is required to file one, the writ petition is summarily disposed of.

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